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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------|-------------|----------------------|---------------------|------------------|
| 10/743,646 | 12/22/2003 | Teresa Grocela Rocha | GE 129438 | 7273 |
| 41838 | 7590 | 01/18/2006 | EXAMINER | |
| GENERAL ELECTRIC COMPANY (PCPI) | | | JOHNSON, EDWARD M | |
| C/O FLETCHER YODER | | | ART UNIT | PAPER NUMBER |
| P. O. BOX 692289 | | | 1754 | |
| HOUSTON, TX 77269-2289 | | | | |

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|--|-------------------------------|------------------|
| Advisory Action Before the Filing of an Appeal Brief | Application No. | Applicant(s) |
| | 10/743,646 | ROCHA ET AL. |
| | Examiner Edward M. Johnson | Art Unit 1754 |
| --The MAILING DATE of this communication appears on the cover sheet with the correspondence address -- | | |
| <p>THE REPLY FILED <u>27 December 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.</p> <p>1. <input checked="" type="checkbox"/> The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</p> <p>a) <input type="checkbox"/> The period for reply expires _____ months from the mailing date of the final rejection.</p> <p>b) <input checked="" type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p> <p>Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p> <p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p> | | |
| <p><u>NOTICE OF APPEAL</u></p> <p>2. <input type="checkbox"/> The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</p> | | |
| <p><u>AMENDMENTS</u></p> <p>3. <input type="checkbox"/> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because</p> <p>(a) <input type="checkbox"/> They raise new issues that would require further consideration and/or search (see NOTE below);</p> <p>(b) <input type="checkbox"/> They raise the issue of new matter (see NOTE below);</p> <p>(c) <input type="checkbox"/> They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p> <p>(d) <input type="checkbox"/> They present additional claims without canceling a corresponding number of finally rejected claims.</p> <p>NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).</p> <p>4. <input type="checkbox"/> The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</p> <p>5. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____.</p> <p>6. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p> <p>7. <input type="checkbox"/> For purposes of appeal, the proposed amendment(s): a) <input type="checkbox"/> will not be entered, or b) <input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p> <p>The status of the claim(s) is (or will be) as follows:</p> <p>Claim(s) allowed: _____.</p> <p>Claim(s) objected to: _____.</p> <p>Claim(s) rejected: <u>1-15, 24 and 25</u>.</p> <p>Claim(s) withdrawn from consideration: <u>16-23</u>.</p> | | |
| <p><u>AFFIDAVIT OR OTHER EVIDENCE</u></p> <p>8. <input type="checkbox"/> The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</p> <p>9. <input type="checkbox"/> The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</p> <p>10. <input type="checkbox"/> The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.</p> | | |
| <p><u>REQUEST FOR RECONSIDERATION/OTHER</u></p> <p>11. <input checked="" type="checkbox"/> The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet</u>.</p> <p>12. <input type="checkbox"/> Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.</p> <p>13. <input type="checkbox"/> Other: _____.</p> | | |
|  Edward M. Johnson Primary Examiner Art Unit: 1754 | | |

Continuation of 11. does NOT place the application in condition for allowance because: It is argued that Okimura discloses a catalytic system... the main phase. This is not persuasive because Applicant appears to admit that Okimura discloses "Ga oxides as an ingredient for the final product" even though insisting that it is not included in the structure. And, in any case, Applicant does not claim Ga oxide as specifically part of a particular structure, spinel or otherwise. Rather, Applicant merely claims a "catalyst system" comprising Ga or In oxide. It is noted that the features upon which applicant relies (i.e., a specific structure that is not a "spinel structure" or a part thereof which specifically includes Ga or other oxides) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

It is noted that the Examiner noted that the claims do not... spinel structure. This is not persuasive because it is the basis of which Applicant attempts to distinguish the claims from the prior art even though Applicant claims no specific "structure", spinel or otherwise, but rather simply a catalytic "system" which is broadly interpreted as having any structure, spinel or not. Claims must be given their broadest reasonable interpretation. *In re Morris*, 127 F.3d 1048, 1054-55 (Fed. Cir. 1997).

It is argued that Kepner describes a catalyst and binder... unsubstituted adsorbent. This is not persuasive because Applicant does not claim a catalyst system that does not have a binder or adsorbent. Rather, Applicant uses open language "comprising" in claiming a catalytic system, which is broadly interpreted as not specifically excluding other ingredients, such as a binder or adsorbent. Kepner is not relied upon for the specific oxides that are disclosed in Okimura. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

It is argued that Park describes a catalyst system... promoter or dopant. This is not persuasive because Balmer-Millár discloses gasoline, which is a reductant. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).